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October 15, 2019

Steve McDowell  
Partner  
McDowell & Sons Contractors, Inc.  
10214 HWY 65  
Iowa Falls, Iowa 50126

RE: One Call Violations – Hardin County

Dear Mr. McDowell:

It has come to our attention that on or about July 9, 2019, McDowell & Sons Contractors, Inc. (“McDowell & Sons”), conducted excavations at 504 Polk Street, Iowa Falls, Iowa, using a backhoe to remove concrete curbs and gutters, without providing 48-hours notice of the planned excavation to the owners and operators of underground facilities. As a result, underground facilities, including a 1-inch diameter natural gas pipeline under 14 pounds per square inch of pressure (psi), were not located and marked prior to the excavations. During the July 9, 2019 excavation, McDowell & Sons hit and damaged the 1-inch diameter pipeline, resulting in remediation costs to the pipeline company.

McDowell & Sons indicated in a response to the Iowa Utilities Board (“IUB”) that it was not excavating, only removing existing the existing curb and gutter. “Excavation” is defined very broadly, with limited exceptions, and includes “an operation in which a structure or earth, rock, or other material in or on the ground is moved, removed, or compressed, or otherwise displaced by means of any tools, equipment...” Iowa Code section 480.1(4). Removing existing concrete necessarily involves at least some displacement of earth and/or rock directly in or on the ground beneath the concrete, and therefore qualifies as an “excavation.”

In addition, McDowell & Sons indicated when it conducted the excavation, the main gas line had been marked but the service line had not. Iowa Code section 480.4(3)(a)(1) provides that the line must be marked within 48 hours. The One Call tickets (No. 191891766 and 191891767) McDowell & Sons placed for this excavation were made on or about 2:30pm on July 8, 2019—giving underground facility owners and operators until 2:30pm on July 10, 2019 to locate and mark the underground facilities. McDowell & Sons conducted excavations at approximately 10:30am on July 9, 2019, prior to the expiration of the 48 hour time period to locate and mark underground facilities.

Failure to provide 48-hours notice of the excavation constitutes violation of Iowa Code sections 480.1A, 480.4(1)(a), and 480.4(1)(b)(1)-(8). Iowa Code section 480.6(1)(a) authorizes the Attorney General to seek civil penalties up to a maximum of Ten Thousand Dollars (\$10,000) per day of each such violation involving natural gas pipelines. Iowa Code section 480.6(1)(b) authorizes the Attorney General to seek civil penalties up to a maximum of One Thousand Dollars (\$1,000) per day of each such violation to all other underground facilities. Injunctive relief is also authorized pursuant to Iowa Code section 480.7.

Notice of a planned excavation must be given by either filing a ticket online at [www.iowaonecall.com](http://www.iowaonecall.com) or calling the One Call Notification Center at 1-800-292-8989 or 811 at least 48 hours prior to the excavation.

The purpose of this letter is to advise that the Iowa One Call statute must be strictly complied with. Failure to comply may result in judicial enforcement proceedings initiated by our office pursuant to Iowa Code sections 480.6 and 480.7.

Thank you for your attention to this matter.

Sincerely,



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